

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

BRUCE RHYNE and JANICE RHYNE,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	Case No.: 3:18-cv-00197-RJC-DSC
UNITED STATES STEEL CORPORATION,	)	
et al.	)	
	)	
Defendants.	)	
	)	
	)	
	)	

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**DEFENDANT THE SAVOGRAN COMPANY’S MOTION TO EXCLUDE PLAINTIFFS’  
EXPERT DR. ROBERT HERRICK**

Defendant THE SAVOGRAN COMPANY (“Savogran”) submits this Motion to Exclude Plaintiffs’ Expert Dr. Robert Herrick (“Dr. Herrick”). Pursuant to Federal Rule of Evidence 702 and Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579 (1993), Savogran hereby moves the Court for an Order to exclude the testimony, opinions, and report of Plaintiffs’ expert, Dr. Robert Herrick, and for such other and further relief as the Court deems just and proper.

The Court should exclude the testimony of this proffered expert because Dr. Herrick’s exposure opinions are based on speculation and insufficient data, are not the product of reliable methods, and Dr. Herrick did not reasonably apply the methods in this case. Without evidentiary support, Dr. Herrick based his exposure calculations upon assumptions regarding Plaintiff’s frequency of use, duration of use, and the particular formula of Kutzit used. Further, Dr. Herrick made other assumptions regarding number of years of use of the product Kutzit that was in direct

contradiction to Plaintiff's testimony, thereby exaggerating his exposure numbers.

The grounds for this Motion are more fully set forth in Savogran's separately-filed Memorandum of Law in support of this Motion, as well as in UNITED STATES STEEL CORPORATION'S and SAFETY-KLEEN SYSTEMS, INC.'S Motion and Memorandum In Support Of Its Motion To Exclude Or Limit The Testimony, Opinions and Report Of Plaintiffs' Expert Dr. Robert Herrick, which Savogran joins in and incorporates by reference. For the reasons stated in those memoranda, and for the reasons stated herein, the Court should enter an order excluding Dr. Robert Herrick, his testimony, opinions, and report, as based on speculation and unreliable and based upon unreliable and misapplied methods under Federal Rule of Evidence 702 and Daubert, 509 U.S. 579 (1993), and for such other relief and further relief as the Court deems just and proper. Pursuant to Western District of North Carolina Local Rule 7.1(b), Savogran has consulted with Plaintiffs who do not consent to the Motion.

Respectfully submitted, this 7th day of April, 2020.

By: /s/ Brian M. Ledger

Brian M. Ledger, Esq.

CA State Bar No.: 156942

GORDON REES SCULLY MANSUKHANI LLP

101 W. Broadway, Suite 2000

San Diego, CA 92101

Telephone: (619) 696-6700

Facsimile: (619) 696-7124

Email: bledger@grsm.com

By: /s/ Robin K. Vinson

Robin K. Vinson, Esq.

N. C. State Bar No.: 9018

GORDON REES SCULLY MANSUKHANI LLP

421 Fayetteville Street, Suite 330

Raleigh, NC 27601

Telephone: (919) 500-0856

Facsimile: (919) 741-5840

Email: rvinson@grsm.com

*Attorneys for Defendant The Savogran Company*

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned counsel has this day filed **DEFENDANT THE SAVOGRAN COMPANY'S MOTION TO EXCLUDE PLAINTIFFS' EXPERT DR. ROBERT HERRICK** using the CM/ECF system which will send notification of such filing to all counsel of record.

This 7<sup>th</sup> day of April, 2020.

By: /s/ Brian M. Ledger  
Brian M. Ledger, Esq.  
CA State Bar No.: 156942  
GORDON REES SCULLY MANSUKHANI LLP  
101 W. Broadway, Suite 2000  
San Diego, CA 92101  
Telephone: (619) 696-6700  
Facsimile: (619) 696-7124  
Email: bledger@grsm.com

By: /s/ Robin K. Vinson  
Robin K. Vinson, Esq.  
N. C. State Bar No.: 9018  
GORDON REES SCULLY MANSUKHANI LLP  
421 Fayetteville Street, Suite 330  
Raleigh, NC 27601  
Telephone: (919) 500-0856  
Facsimile: (919) 741-5840  
Email: rvinson@grsm.com

*Attorneys for Defendant The Savogran Company*